

Appl. No.: 09/750,144
Amdt. dated September 9, 2008
Reply to Official Action of August 12, 2008

REMARKS/ARGUMENTS

This Amendment is being filed in response to the non-final Official Action of August 12, 2008, following a decision of the Board of Patent Appeals and Interferences (BPAI) decision on a previous final rejection of all of the pending claims, namely Claims 1-21. As background, Applicant appealed a final rejection of Claims 1-3, 5, 7, 10-13, 15, 17, 20 and 21 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2004/0049737 to Simon Hunt et al., in view of U.S. Patent No. 6,003,033 to Amano et al.; and a final rejection of Claims 4, 6, 8, 9, 14, 16, 18 and 19 under 35 U.S.C. § 103(a) as being unpatentable over the Simon Hunt publication in view of the Amano patent, and further in view of U.S. Patent Application Publication No. 2002/0143521 to Call.

A. Simon Hunt and Polonsky

As further background, the Simon Hunt publication, upon which the final rejection relied to reject all of the pending claims, has a filing date of October 25, 2002 and claims priority as a continuation-in-part of two utility patent applications – U.S. Patent Application Nos. 09/842,474 and 09/843,036 – both filed April 25, 2001, and via those applications claims priority to a provisional patent application filed April 26, 2000. The present application, on the other hand, has a filing date of December 29, 2000. The present application therefore has an effective filing date before the filing dates of the continuation-in-part application that was published on October 25, 2002, and the two utility patent applications on April 25, 2001. On appeal, the BPAI found that as the provisional patent application did not share at least one common inventor with the Simon Hunt publication, the Simon Hunt publication did not properly claim priority to the provisional application. And with Simon Hunt's actual and effective filing dates thus being after the filing date of the present application, the BPAI held that the Simon Hunt publication is not prior art to the claimed invention and reversed the final rejection. In response, the Examiner reopened prosecution and issued the present non-final Official Action.

The present, non-final Official Action now substitutes for the Simon Hunt publication the patent that issued from the aforementioned U.S. Patent Application Nos. 09/842,474, namely U.S. Patent No. 7,072,984 to Polonsky et al., although as noted, the Polonsky patent does include

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both of the named inventors of the aforementioned provisional application. That is, the Official Action rejects Claims 1-3, 7, 10-13, 17, 20 and 21 under 35 U.S.C. § 103(a) as being unpatentable over the Polonsky patent, in view of the Amano patent; and rejects Claims 4-6, 8, 9, 14-16, 18 and 19 as being unpatentable over the Polonsky patent in view of the Amano patent, and further in view of the Call publication. It should be noted that although Claims 5 and 15 were previously rejected over the combination of the Simon Hunt publication and the Amano patent, by virtue of their dependency to Claims 4 and 14, respectively, their rejection is now based on the combination of the Polonsky patent, the Amano patent and the Call publication.

As the Polonsky and Simon Hunt publications share common subject matter (Simon Hunt being a continuation-in-part of Polonsky), the present Official Action in effect repeats the same rejections as before, but instead of citing passages of the Simon Hunt publication, cites corresponding passages of the Polonsky patent, these rejections and corresponding arguments having previously been presented by the Office in the final Official Action of October 14, 2005, and Examiner's Answer of July 5, 2007. And as the same remarks with respect to the Simon Hunt publication apply equally to the Polonsky patent, Applicant traverses the rejections for the same reasons as previously presented with respect to the Simon Hunt publication, as explained in greater detail below. Nonetheless, Applicant has amended various ones of the claims to further clarify the claimed invention, and added new Claims 22-29 to recite further patentable aspects. In view of the amendments to the claims, the added claims and the remarks presented herein, Applicant respectfully requests reconsideration and allowance of all of the pending claims of the present application.

As explained below, a principle point of disagreement between Applicant and the Office relates to the sufficiency of the Simon Hunt/Polonsky provisional to support features of the Simon Hunt/ Polonsky patent cited as corresponding to elements of the claimed invention. In the interest of compact prosecution, should the Office maintain that the Polonsky provisional supports the features of the Polonsky patent cited as corresponding to features of the claimed invention, **Applicant hereby requests that for each of those citations to the Polonsky patent, the next Official Action also include corresponding citations to the Polonsky provisional.**

B. The Claimed Invention is Patentable

The present patent application is directed to a compact tree representation of a document written in a markup language (e.g., XML). More particularly, amended independent Claim 1 provides a method of representing a document written in a markup language on a mobile terminal, and amended independent Claim 10 provides an apparatus including a processor configured to carry out such a method. As recited, the method includes providing a virtual node tree describing the structure of the data types in the document but not containing actual document data, where each of the nodes in the virtual node tree respectively correspond to one element of a specific data type in the document. The method also includes providing a data array for each one of the nodes in the virtual node tree, where the data array includes information identifying the relationship of the node to other nodes in the virtual node tree and a reference indicating the location of data corresponding to the node. Thus, the data corresponding to the nodes using the reference included in the data array can be obtained by a set of software components in the apparatus.

1. Claims 1-3, 7, 10-13, 17, 20 and 21 are Patentable over Polonsky in view of Amano

The Official Action alleges that the Polonsky patent discloses all of the elements of amended independent Claims 1 and 10 including providing a virtual node tree and obtaining data corresponding to the nodes of the tree, but does not disclose a virtual node tree not containing actual document data. For that element, the Official Action cites the Amano patent. The Official Action then alleges it would be obvious to one skilled in the art to modify the teachings of the Polonsky patent with those of the Amano patent to include a virtual node tree that does not include actual document data. Applicant respectfully disagrees on all three accounts.

a) Polonsky Cited Disclosure is not Prior Art to the Claimed Invention

With respect to the Polonsky patent, similar to the previous arguments with respect to the Simon Hunt patent, Applicant submits that the disclosure relied upon by the Official Action for

disclosing elements of the claimed invention is not prior art to the present application, and can therefore not be properly cited against the claimed invention. In this regard, the Polonsky patent has a filing date of April 25, 2001, and claims priority to a provisional patent application filed April 26, 2000. The present application, on the other hand, has a filing date of December 29, 2000. The present application therefore has an effective filing date before the filing date of the Polosky patent application on April 25, 2001. Accordingly, the Polonsky patent is only prior art for the subject matter that was first disclosed by the Polonsky provisional application and not subject matter first added in the subsequent utility application. By way of example, only the content of the Polonsky provisional application that is carried over into the Polonsky patent may be considered prior art. Subject matter that is newly added in the Polonsky patent that was not disclosed by the Polonsky provisional application is not prior art relative to the present application.

In order to determine the relevance of the Polonsky patent to the claimed invention, Applicant's undersigned attorney obtained and reviewed a copy of the Polonsky provisional application from the USPTO's public PAIR Web portal. The Official Action cited portions (i.e., col. 15, l. 47 – col. 16, l. 22 – corresponding to the Simon Hunt publication, paragraphs 0146-0151) of the Polonsky patent directed to a QDOM module generating a representation of a document object model (DOM) tree of a document into an array that includes the start and stop positions of the document text as corresponding to the claimed feature of providing a virtual node tree. However, the Polonsky provisional application is silent as to the QDOM or its technique for generating a representation of a DOM tree. The Polonsky provisional application does disclose normalizing a DOM tree, but the disclosed normalization does not realize a data array including information identifying the relationship of a node to other nodes in the virtual node tree and a reference indicating the location of data corresponding to the node, as in the claimed invention. Thus, at least those portions of the Polonsky patent that were relied upon by the Official Action are not prior art relative to the claimed invention.

The Office has asserted that QDOM is the term for application of a DOM tree that identifies each node in a document using a unique value. The Office has continued by asserting that the Polonsky provisional application discloses a DOM tree being subjected to a

normalization process, citing the first paragraph of page 3 of the Polonsky provisional. Applicant respectfully submits, however, that in attempting to support the passages of the Polonsky patent cited for disclosing aspects of the claimed invention (i.e., col. 15, l. 47 – col. 16, l. 22 – corresponding to the Simon Hunt publication, paragraphs 0146-0151) the Office has not identified any corresponding passages of the Polonsky provisional application that actually support the cited passages and have, instead, only identified passages of the Polonsky provisional application that are directed to other steps of the overall process. That is, although the Official Action cites passages of the Polonsky patent directed to the QDOM and its operation, the Office has not cited any corresponding portion of the Polonsky provisional application directed to the QDOM and its operation, but has instead cited passages of the Polonsky provisional application directed to the normalizer of the Polonsky patent.

Applicant respectfully submits that, although the Polonsky provisional application discloses subjecting a DOM tree to a normalization process, such a process is separate and distinct from the QDOM cited by the Examiner as disclosing aspects of the claimed invention. More particularly, the Polonsky patent discloses in part:

Referring back to FIG. 2, the user agent 110 translates the requested data content, if necessary, into a recognizable markup language for further processing. The markup language may be in the format of XML, WML, HTML, or any other markup language or technology (e.g., video, audio, image) that incorporates the features used by the present embodiments.

The translated information is then organized into a logically structured format for further processing by the QDOM 116. The QDOM 116 efficiently constructs a nodal structure. The use of the QDOM 116 enables a standard structured interface to the retrieved content that can be utilized by all modules of the server browser 110. The QDOM 116 can effectively and efficiently store the information content in a standardized structure for use by the normalizer [for normalization], more described below.

Polonsky patent, col. 8, ll. 43-58 (corresponding to the Simon Hunt publication paragraphs 0079-0080); and *see id.* at col. 9, ll. 16-24 (corresponding to the Simon Hunt publication, paragraph 0085). Similarly, the Polonsky provisional application discloses in part:

.... [A] Content Manager, preferably within the Gateway Cluster, translates the information into a markup language for further processing. This language may be eXtensible Markup Language (XML), HTML, or any language that incorporates the features used by the invention. The translated information

*is organized in a logically structured format for processing by a DOM Layer.
This structure is typically a Document Object Model (DOM) tree.*

*A Normalization Layer within the Content manager selects nodes from the
DOM tree and analyzes elements of the tree. This analysis is used to create a
new, normalized tree that can be efficiently accessed by an appliance.*

Polonsky Provisional, pages 2-3.

As shown above, the Polonsky patent discloses translating content, which is organized into a DOM tree by a QDOM, and then subjected to a normalizer. The Polonsky provisional similarly discloses translating content, which is organized into a DOM tree by a DOM Layer (notably not by a QDOM), and then subjected to a Normalization Layer. The QDOM of the Polonsky patent therefore most closely corresponds to the DOM Layer of the Polonsky provisional. And separately and distinctly from the QDOM/DOM Layer, the normalizer of the Polonsky patent most closely corresponds to the Normalization Layer of the Polonsky provisional. Thus, the passages of the Polonsky provisional describing the Normalization Layer do not support or correspond to passages of the Polonsky patent describing the QDOM and cited as disclosing elements of the claimed invention.

As indicated above, one could argue that the DOM Layer of the Polonsky provisional corresponds to the QDOM of the Polonsky patent. Even in this instance, however, the Polonsky provisional does not describe the DOM Layer in such a manner so as to support the functions of the QDOM described in the Polonsky patent and cited against the claimed invention. In this regard, other than explaining that the DOM Layer organizes translated information into a DOM tree, the Polonsky provisional does not disclose any of the functions of the QDOM in the Polonsky patent cited against the claimed invention. In fact, throughout the Polonsky provisional, the input to the Normalization Layer (from the DOM Layer) is described as being a World Wide Web Consortium (W3C) DOM tree. Polonsky Provisional, page 15 (explaining that “[t]he W3C DOM Tree is the primary input to the Normalization Layer”). As explain in the Polonsky patent, on the other hand, the QDOM “extends the World Wide Web Consortium (W3C) DOM interface definition to an efficient model that provides high speed parsing, storage, and access while minimizing memory resource requirements.” Polonsky patent, col. 2, ll. 54-64 (corresponding to the Simon Hunt publication, paragraph 0016; and *see id.* at col. 16, ll. 59-63

(corresponding to the Simon Hunt publication, paragraph 0157) (explaining that “[a] number of preliminary tests have been taken to determine the time saved using the QDOM 116 as compared to the node-based interface of the standard W3C DOM”).

The Office further attempts to support the Polonsky patent disclosing aspects of the claimed invention by citing aspects of a normalization process for a DOM tree. As a consequence of normalization, the Office alleges that the normalized DOM tree “contains data information describing the tree’s structure, the tree’s dependencies (root, parent, child, etc) and references to information content data (font attribute importance) with unique weight/priority values.” Official Action of Aug. 12, 2008, pages 13-14. Even given the foregoing, Applicant maintains that the Polonsky patent does not teach or suggest providing, for each one of the nodes of the DOM tree or normalized DOM tree, a data array including information identifying the relationship of the node to other nodes in the tree, and a reference indicating the location of data corresponding to the node. The Office appears to suggest that the importance of an element of textual data as represented by its font attribute (font attribute importance) corresponds to the data, the location of which is indicated by a reference in the data array. To the contrary, however, Applicant respectfully submits that since the DOM tree or normalized DOM tree of the Polonsky patent does not include a node for importance of the font attribute of textual data, the font attribute importance cannot logically be interpreted as data corresponding to a node, a reference indicating the location of which is provided in a data array for the respective node, in a manner similar to the claimed invention.

Accordingly, although the Polonsky provisional supports organizing information into a DOM tree, the Polonsky provisional does not support the functions of the QDOM cited by the Official Action as disclosing elements of the claimed invention. The Polonsky provisional application does appear to support portions of the Polonsky patent directed to a normalizer. But nowhere does the Polonsky provisional teach or suggest that the normalizer realizes a data array including information identifying the relationship of a node to other nodes in the virtual node tree and a reference indicating the location of data corresponding to the node, as in the claimed invention.

b) *The Polonsky Patent does not Teach/Suggest Elements of the Claimed Invention*

As explained above, in contrast to the claimed invention, the Polonsky patent does not teach or suggest, for each one of the nodes in a virtual tree, a data array including information identifying the relationship of the node to other nodes in the virtual node tree, and a reference indicating the location of data corresponding to the node. The Official Action alleges that the Polonsky patent discloses the aforementioned feature. In addition, however, the Office alleges the following:

... Moreover, it was commonly known to those of ordinary skill in the art and would have been obvious at the time of the invention was made to a person having ordinary skill in the art that DOM trees can be implemented as an array (or as a linked list) for the motivational purpose of implementing a organized data structure. Popular browsers such as Internet Explorer and Mozilla used the array implementation for their DOM trees)

Official Action of Aug. 12, 2008, page 4. And see 12, where the Office similarly alleges the following:

Moreover, it was commonly known to those of ordinary skill in the art at the time of the invention was made to a person having ordinary skill in the art that DOM trees were implemented using an array (or a linked list) for the motivational purpose of implementing a organized data structure of markup documents (DOM data arrays were used specifically to identify the relationship and locations of nodes). Popular Internet browsers such as Internet Explorer and Mozilla specifically used the array implementation for their DOM trees.

Therefore the [Polonsky provisional] discloses, or at the very least made obvious to one skilled in the art at the time of the invention, a data array including information identifying the relationship of a node to other nodes in the virtual tree and a reference indicating the location of data corresponding to the node.

Id. at page 12 (emphasis added).

As to the aforementioned additional prior art allegations, Applicant initially submits that, to the extent the Office has taken notice of facts not in the record or relied on common knowledge in the art, in accordance with MPEP § 2144.03, Applicant expressly traverses the taking of official notice and requests that the Examiner include documentary evidence of such facts so that Applicant may appropriately respond to such allegations. As a principle error in alleging facts outside of the record, Applicant notes that even if popular browsers such as

Internet Explorer and Mozilla implemented DOM trees as arrays, the Office has not alleged, or provided documentary evidence, that such browsers implemented DOM trees further including a data array for each one of the nodes in a DOM tree, similar to the claimed invention. In this regard, even taking the alleged facts as a given (although expressly not admitted), Applicant questions whether the DOM tree implementation of Internet Explorer and Mozilla included a data array for each node of the DOM tree, where each data array included information identifying the relationship of the node to other nodes in the virtual node tree, and a reference indicating the location of data corresponding to the node, similar to the claimed invention.

Applicant further notes that even if Internet Explorer and Mozilla implemented DOM trees as data arrays, the Office has not provided proper motivation for modifying the DOM tree of the Polonsky patent to include such an implementation. As The Office suggests that one skilled in the art would have been motivated to implement the W3C-implemented DOM tree as a data array per Internet Explorer or Mozilla, because such trees “could” be implemented as a data array to “implement an organized data structure.” Applicant respectfully submits, however, that the W3C-implemented DOM tree of the Polonsky patent already implements an organized data structure, and therefore would not additionally benefit from any data array DOM implementation of Internet Explorer or Mozilla.

In addition, Applicant respectfully submits that the fact that the DOM tree of the Polonsky patent “could” be implemented as a data array as in Internet Explorer or Mozilla, without any apparent reason for the modification, does not provide sufficient motivation for the modification. As has been held by the Board of Patent Appeals and Interferences, and noted in the MPEP, the mere fact that one skilled in the art could adapt the reference device to meet the terms of a claim is not by itself sufficient to support a finding of obviousness. The prior art must also provide a motivation or reason for one skilled in the art, without the benefit of applicant’s specification, to make the necessary modifications to the reference device. MPEP 2144.04(VI.)(C.) (*citing Ex parte Chicago Rawhide Mfg. Co.*, 223 USPQ 351, 353 (Bd. Pat. App. & Inter. 1984)). Thus, Applicant respectfully submits that a conclusory statement that it would have been obvious to implement the Polonsky W3C-implemented DOM tree as a data array per Internet Explorer or Mozilla to implement an organized data structure (already

implemented by the W3C-implemented DOM tree) does not by itself provide a sufficient reason for the modification to the Simon Hunt W3C-implemented DOM tree.

The Office alleges that the Amano patent discloses pointers that reference the location of each of the nodes in a node tree. The Amano patent does disclose generating a data structure whereby parent nodes are connected to child nodes via pointers. However, the Amano patent does not teach or suggest that the data structure includes, for each node of a virtual node tree, a reference indicating the location of data corresponding to the node, as recited by the claimed invention. Again, one could argue that the Amano patent discloses, for a parent node, a reference indicating the location of data corresponding to a child node. The Amano patent does not teach or suggest, however, that the data structure for the parent node includes a reference indicating the location of data corresponding to the respective parent node, similar to the claimed invention. In fact, the Amano patent explicitly discloses that the attributes of the parent node are set in the memory area assigned thereto, at least suggesting that the Amano patent discloses that the memory area for the parent node includes the data corresponding to the parent node, as opposed to a reference to the respective data.

**c) *The Amano Patent does not Teach/Suggest Elements of the
Claimed Invention***

As indicated above, the Official Action alleges that the Polonsky patent discloses all of the elements of amended independent Claims 1 and 10 including providing a virtual node tree and obtaining data corresponding to the nodes of the tree, but does not disclose a virtual node tree not containing actual document data. For that element, as well as additional disclosure for the claimed provision of a data array for a node including information identifying the relationship of the node with other nodes and a reference including the location of data corresponding to the node, the Official Action cites the Amano patent. Applicant respectfully disagrees.

The Official Action alleges that the Amano patent discloses the provision of a data array for a node including information identifying the relationship of the node with other nodes and a reference including the location of data corresponding to the node, as recited by the claimed

invention. For support, the Official Action cites FIG. 18, and column 10, lines 29-40 of the Amano patent. As disclosed by the Amano patent, a data structure representing a tree is provided in the form of a table, where the table may be created by means of a text editor. Amano Patent, column 3, lines 36-58. The passage before the cited passage of the Amano patent discloses that generating the data structure from the table includes, for each node of the corresponding tree, assigning a memory area to a node and setting attribute data for that node in the respective memory area. For child nodes of the tree, the cited passage of the Amano patent discloses connecting the child's memory area (area assigned to the child) to the parent's memory area (area assigned to the parent) by a pointer. The pointer is then set in an array for storing pointer data to child nodes, the pointer data including the address of the child node (address of the area assigned to the child) or an index of another array including the respective address.

The Amano patent therefore discloses generating a data structure whereby parent nodes are connected to child nodes via pointers. The Amano patent does not teach or suggest that the data structure includes, for each node of a virtual node tree, a reference indicating the location of data corresponding to the node, as recited by the claimed invention. One could argue that the Amano patent discloses, for a parent node, a reference indicating the location of data corresponding to a child node. The Amano patent does not teach or suggest, however, that the data structure for the parent node includes a reference indicating the location of data corresponding to the respective parent node, similar to the claimed invention. In fact, the Amano patent explicitly discloses that the attributes of the parent node are set in the memory area assigned thereto, at least suggesting that the Amano patent discloses that the memory area for the parent node includes the data corresponding to the parent node, as opposed to a reference to the respective data.

d) No Motivation to Combine Polonsky and Amano

Moreover, Applicant notes that even if one could interpret (albeit incorrectly) the Polonsky patent and Amano patent to disclose elements of the claimed invention to also be prior art to the claimed invention as alleged in the Official Action, one skilled in the art would not have been motivated to combine the teachings of the Polonsky patent and Amano patent to teach

or suggest the claimed invention. The Official Action appears to be applying impermissible hindsight in finding motivation to combine the the Polonsky patent and Amano patent to disclose the claimed invention. *See In Re Dembiczak*, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999) (explaining that “[c]ombining prior art references without evidence of such a suggestion, teaching, or motivation simply takes the inventor’s disclosure of a blueprint for piecing together the prior art to defeat patentability -- the essence of hindsight”).

Applicants acknowledge the Supreme Court’s recent decision in which the Court rejected a rigid application of the “teaching, suggestion or motivation” (TSM) test. *KSR Int’l. Co. v. Teleflex, Inc.*, 127 S.Ct. 1727, 82 USPQ2d (BNA) 1385 (2007). Nonetheless, in *KSR Int’l. Co.*, the Court did state that obviousness often requires determining whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue, and that to facilitate review, this analysis should be made explicit. *See KSR Int’l. Co.*, 127 S.Ct. at 1740–41, 82 USPQ2d (BNA) at 1396. Even further, the Court noted that “[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.*, 127 S.Ct. at 1740-41, 82 USPQ2d (BNA) at 1396, *citing In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d (BNA) 1329 (Fed. Cir. 2006) (emphasis added).

As clearly explained by the Supreme Court in *KSR Int’l. Co.*, then, any finding of obviousness should be based on an apparent reason to combine the prior art, and must be supported by more than mere conclusory statements. In the instant case, the Office merely asserts that the Polonsky patent and Amano patent are in the same field of endeavor, and that modifying the Polonsky patent with the Amano patent provides for easily describing a tree, and generating a data structure that corresponds to the tree in memory with the resultant description. However, the Office fails to cite any evidence to support this assertion.

The Amano patent provides a system and method for generating a data structure using a data tree through a table. This tabulation of a data tree and generation of a data structure from the table, however, are separate and distinct issues from the generation of the data tree itself from an original document. One skilled in the art would not have been led to combine these distinct concepts because the generation of a data tree is a different issue from interpreting a data tree. In

this regard, the ease with which the Amano patent interprets a data tree does not by itself provide motivation for one skilled in the art to modify the Polonsky patent to not only generate a tree, but also interpret its generated data tree in a manner similar to the Amano patent including the skeleton of a tree. That is, without an allegation that the Polonsky patent already discloses interpreting a generated data tree, or an allegation that one skilled in the art would be motivated to so modify the Polonsky patent, it is irrelevant how easy the Amano patent describes a tree and generates a data structure corresponding thereto. In the instant case, however, Applicant respectfully submits that there is no apparent reason why one skilled in the art would be led to modify the Polonsky patent to interpret its generated data tree in a manner similar to that in the Amano patent, including use of the skeleton of a tree (alleged to correspond to the virtual node tree without actual document data).

In view of the foregoing, Applicant respectfully submits that amended independent Claims 1 and 10, and by dependency Claims 2-9 and 11-21, are patentably distinct from the Polonsky patent and the Amano patent, taken individually or in any proper combination. And for similar reasons, Applicant respectfully submits that new independent Claims 22 and 26, and by dependency Claims 23-25 and 27-29, are also patentably distinct from the Polonsky patent and the Amano patent, taken individually or in any proper combination.

Applicant therefore respectfully submits that the rejection of Claims 1-3, 7, 10-13, 17, 20 and 21 as being unpatentable over the Polonsky patent in view of the Amano patent is overcome.

2. *Claims 4-6, 8, 9, 14-16, 18 and 19 are Patentably Distinct from Polonsky in view of Amano, and further in view of Call*

The Official Action also rejects dependent Claims 4-6, 8, 9, 14-16, 18 and 19 as being unpatentable over the Polonsky patent in view of the Amano patent, and further in view of the Call publication. Applicant respectfully submits, however, that the Call publication does not cure the defects of the Polonsky patent and Amano patent, and that amended independent Claims 1 and 10, and by dependency Claims 2-9 and 11-21, are therefore patentably distinct from the Polonsky patent, Amano patent and Call publication, taken individually or in combination. And for similar reasons, Applicant respectfully submits that new independent Claims 22 and 26, and

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by dependency Claims 23-25 and 27-29, are also patentably distinct from the Polonsky patent, Amano patent and Call publication, taken individually or in combination.

Applicant therefore respectfully submits that the rejection of Claims 4-6, 8, 9, 14-16, 18 and 19 as being unpatentable over the Polonsky patent in view of the Amano patent, and further in view of the Call publication, is overcome.

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CONCLUSION

In view of the amendments to the claims, the added claims and the remarks presented above, Applicant respectfully submits that the present application is in condition for allowance. As such, the issuance of a Notice of Allowance is therefore respectfully requested. In order to expedite the examination of the present application, the Examiner is encouraged to contact Applicant's undersigned attorney in order to resolve any remaining issues.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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